

VIA FACSIMILE

PTO/SB/26 (09-04)

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**TERMINAL DISCLAIMER TO OBIVATE A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)
200116.403D1

In re Application of: Horst Fischer et al.

Application No. 09/982,315

Filed: October 17, 2001

For: COMPOSITIONS AND METHODS FOR CYSTIC FIBROSIS THERAPY

The owner*, Children's Hospital Oakland Research Institute of 100 percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,329,422 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

- expires for failure to pay a maintenance fee;
- is held unenforceable;
- is found invalid by a court of competent jurisdiction;
- is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
- has all claims canceled by a reexamination certificate;
- is reissued; or
- is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any


terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Registration No. 50,461



Signature

February 4, 2005

Date

Julie A. Urvater, Ph.D., Patent Agent

Typed or printed name

206.622.4900

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

06/28/2005 RHEBRAHT 00000007 191090 09982315 65.00 DA 01 FC:2814

Effective on 12/01/01
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4618)

FEE TRANSMITTAL

for FY 2005

JUN 24 2005

Application Number	09/982,315
Filing Date	October 17, 2001
First Named Inventor	Horst Fischer
Examiner Name	Howard V. Owens
Art Unit	1623
Attorney Docket No.	200116.403D1

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)**65**

METHOD OF PAYMENT (check all that apply)

- ☐ Check ☐ Credit Card ☐ Money Order ☐ Other (please identify): _____
- ☒ Deposit Account Deposit Account Number: 19-1090 Deposit Account Name: Seed IP Law Group PLLC
- For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)
- ☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
- ☐ Charge any additional fee(s) or underpayments ☒ Charge any underpayments or credit any overpayments of fee(s) under 37 CFR 1.16 and 1.17

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FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	<u>Small Entity</u>	Fee (\$)	<u>Small Entity</u>	Fee (\$)	<u>Small Entity</u>	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 or, for Reissues, each claim over 20 and more than in the original patent	50	25
Each independent claim over 3 or, for Reissues, each independent claim more than in the original patent	200	100
Multiple dependent claims	360	180
Total Claims	Extra Claims	Fee (\$)
_____ -20 or HP = _____	X _____	= _____
HP = highest number of total claims paid for, if greater than 20		
Indep. Claims	Extra Claims	Fee (\$)
_____ -3 or HP = _____	X _____	= _____
HP = highest number of total claims paid for, if greater than 3		

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____ -100 = _____	/50 = _____	(round up to a whole number) x _____		

HP = highest number of total claims paid for, if greater than 20

4. OTHER FEE(S)

	Fees Paid (\$)
Non-English Specification, \$130 fee (no small entity discount)	
Other: <u>Statutory Disclaimer</u>	<u>65</u>

SUBMITTED BY

Signature	<i>Julie A. Urvater</i>	Registration No. (Attorney/Agent)	50,461	Telephone	206-622-4900
Name (Print/Type)	Julie A. Urvater, Ph.D., Patent Agent			Date	February 4, 2005